



## CALIFORNIA LEGISLATURE

STATE CAPITOL  
SACRAMENTO, CALIFORNIA  
95814

April 12, 2005

Lucetta Dunn, Director  
California Department of Housing and Community Development  
1800 Third Street  
P.O. Box 952050  
Sacramento, CA 94252-2050

RE: Statewide Approval of CPVC

Dear Ms. Dunn:

As Chairs of the policy committees covering the areas of Environmental Quality, Housing and Community Development, Environmental Safety and Toxic Materials, Natural Resources, and Air and Water Quality, we are responsible for ensuring that state law adequately safeguards the health and safety of California citizens and also protects the California environment. We are concerned that the process being used for the recent proposal of the Department of Housing and Community Development (Department) to approve chlorinated polyvinyl chloride (CPVC) drinking water pipe for statewide use may threaten the people and environment of California.

The Department's recently circulated Draft Addendum to the Final Mitigated Negative Declaration Amending Section 604.1 of the California Plumbing Code would approve CPVC in any home or other residential building in the state by removing the existing regulatory restrictions on the use of CPVC potable water piping. The current regulatory limitations on CPVC balance the need for an alternative to metallic piping where such pipe would fail due to corrosive soil and/or water conditions that occur to a very limited extent in certain areas of California.

The amendments being proposed to the California Plumbing Code by the Department would allow the unrestricted statewide use of CPVC drinking water pipe and represent a significant change to current regulatory law. In the past, the Department itself initiated but never completed an environmental impact report (EIR) on the statewide use of CPVC. We are

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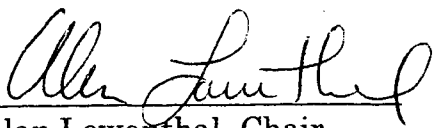
concerned that the Department's proposed "Addendum" attempts to effect a statewide approval of CPVC without disclosing to the public the scope of the proposed approval and without completing the public health and safety and environmental reviews that the Department previously determined necessary. We do not believe that approving CPVC by way of an Addendum is an adequate substitute for comprehensive environmental review required by the California Environmental Quality Act (CEQA).

We believe that the proposed approval of CPVC without resolving the numerous concerns associated with the drinking water pipe is not only bad public policy, but is inconsistent with the requirements of CEQA. The Legislature has never taken action to exempt the approval of potentially hazardous new building materials from CEQA review. The application of CEQA in this context was recently explained by the Court of Appeal in *Plastic Pipe and Fittings Assoc. v. California Building Standards* (2004) 124 Cal.App.4<sup>th</sup> 1309.

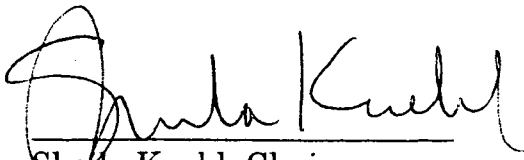
In 2001, the state regulatory agencies responsible for approving new building standards and materials unanimously decided that conducting a CEQA review before approving potentially hazardous new potable water piping was necessary to protect the health and safety of all Californians. The Court of Appeal in *Plastic Pipe and Fittings Assoc. v. California Building Standards* determined that the state agencies' prudent decision was legally correct after challenge by the plastic pipe manufacturers.

Given the history of controversy regarding the approval of CPVC potable water piping, and given the numerous health, safety, and environmental concerns associated with the pipe, we urge you to withdraw the draft Addendum to the Mitigated Declaration and prepare an EIR. This action would enable the state regulatory agencies to take necessary steps to ensure protection of all Californians and would avoid the cost and delay that would result from further litigation.

Sincerely,

  
Alan Lowenthal, Chair  
Senate Committee on Environmental Quality

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Sheila Kuehl, Chair  
Senate Committee on Natural Resources and Water



Gene Mullin, Chair  
Assembly Committee on Housing and Community Development



Fran Pavley, Chair  
Assembly Select Committee on Air and Water Quality



Ira Ruskin, Chair  
Assembly Committee on Environmental Safety and Toxic Materials



Loni Hancock, Chair  
Assembly Committee on Natural Resources